

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 223 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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HITESH ALIAS HITENDRA

RAMESHBHAI PARMAR

Versus

STATE OF GUJARAT

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Appearance:

MR ASHISH M DAGLI for Petitioners

PUBLIC PROSECUTOR for Respondent No. 1

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 13/07/1999

ORAL JUDGEMENT

Rule. Mr.Dave, Ld. APP waives service of Rule on behalf of the Respondent - State. Heard Mr.Dagli, Learned Advocate for the revisioner and Mr.Dave, Ld. APP for the State.

2. Revisioner No.1 Hitesh @ Hitendra Rameshbhai Parmar and Revisioner No.2 Ranchodbhai Dungarbhai Parmar came to be convicted by the Learned Metropolitan Magistrate, Court No.2, Ahmedabad for offences punishable

under Section 324 and 323 of the Indian Penal Code respectively. Revisioner no.1 was sentenced to undergo RI for one year and was fined Rs.3000/- and was ordered to undergo further imprisonment for 30 days in event of default in payment of fine. The revisioner no.2 was fined Rs.500/-.

3. On earlier occasion when the matter came up for admission on 15.4.99 a candid statement was made on behalf of the revisioners that the revision is confined only to the quantum of punishment inflicted and not on any other point on merits. As a result the report of the Probation Officer was called for and it is before this Court. So far as the punishment inflicted upon the revisioner no.2 i.e. Ranchodbhai Dungarbhai Parmar is concerned he is aged about 70 years and only a fine of Rs.500/- is imposed and it does not call for any interference by this Court.

4. So far as the revisioner no.1 Hitesh alias Hitendra Rameshbhai Parmar is concerned, the report of the Probation Officer, if perused, indicates that his conduct is good and is a good natural person socially, suffers from no vices, has parents, one brother and one sister in the family, the neighbours also have expressed good opinion of the conduct of the revisioner in question and therefore the Chief Probation Officer, Ahmedabad has expressed positive opinion for affording the benefit of probation to the Revisioner. Mr.Dagli, Ld. Advocate for the revisioner stated that when the incident occurred the revisioner no.1 was minor and was aged only 16 years. He submits that the incident occurred in a heat of moment, there are no criminal antecedents and no involvement in any crime even subsequently and therefore he may be afforded an opportunity of probation.

5. Ld. APP has also nothing adverse to state against the revisioner and therefore the following order:-

#### O R D E R

The order of conviction by the Metropolitan Magistrate, Court No.2, in Criminal Case No. 1821 of 1994 as confirmed by the Additional City Sessions Judge, Ahmedabad in Criminal Appeal No. 94 of 1998 by judgement and order dated 8.2.1999 is confirmed. However, the sentence in respect of respondent no.1 is suspended. Revisioner Hitesh @ Hitendra Rameshbhai Parmar is ordered to execute a bond for Rs.2000/- & furnish a surety of good conduct of like amount for a period of one year. Respondent No.1 in the mean time shall keep peace and be

of good behaviour. The fine be refunded to respondent no.1. In event, he is found to commit breach of the bond the sentence will become operative and Respondent No.1 will be liable to be subjected to undergo the sentence imposed on him. Rule is made absolute in the aforesaid extent accordingly. This petition is accordingly disposed of.

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